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10 February 2009

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Your Ref: PNF:SM:P55693.AU

Examiner's first report on patent application no. 2003261735
by Suntory Limited and Uchiyama MFG. Corp.

Last proposed amendment no.

Dear Madam/Sir,

I am replying to the request for examination. I have based this report on the verified translation. I have examined the application and I believe that there are lawful grounds of objection to the application. These grounds of objection are:

1. There is no Notice of Entitlement on file. You will need to file one because an application without a Notice of Entitlement cannot be accepted.
2. The invention as defined in claims 1-5, 10-13 is not novel in light of the disclosure in JP 05-124665 (NAGAYANAGI KOGYO KK) 21 May 1993 which discloses a manufacture of a cork stopper including core made of cork and a layer of film of polyethylene terephthalate which is continuous with the liquid contact surface and the outer periphery - re drawing 6 and paragraphs 0010-0012. Paragraphs 0015- 0018 describes the process for making the stopper.
3. The invention as defined in claims 6-9 lacks an inventive step in light of the disclosure in JP 05-124665 (NAGAYANAGI KOGYO KK) 21 May 1993 which at paragraph 0004 discloses the addition of Silicone to the surface of the stoppers of prior art stoppers. JP 05-124665 discloses all the features of the defined claims except for the features added by said claims 5-9. However, this cited art, JP 05-124665, discloses that silicone is coated to the stopper surfaces in prior art stoppers - re paragraph 0004. Hence it is considered that a person skilled in the art of manufacturing stoppers will combine the disclosures of the document therein to arrive at the claimed invention in order to more easily insert the stopper into the neck of the container as it is common general knowledge that silicone is inherently decreases surface friction.
4. The invention as defined in claims 1-5, 10-13 is not novel in light of the disclosure in WO 2003/004367 (PROCEL PTY LTD) 16 January 2003. WO'4367 describes a container stopper including a core made of a compressible material including cork, and other cell foamed plastic as disclosed at page 10 lines 0-19. The core is completely surface bonded with a skin including polyethylene terephthalate- re page 12 lines 9-25. the film also includes a heat activated adhesive layer including polyethylene vinyl chloride 9re page 12 lines 27-page 13 line 6 - relevant to claim 3.
5. The invention as defined in claims 6-9 lacks an inventive step in light of the disclosure in WO 2003/004367 (PROCEL PTY LTD) 16 January 2003. WO'4367 discloses all the defined features of claims 1-5 except that the outer surface of the skin is coated with silicone or

selected from compounds defined in claim 8. However, it is considered that adding lubricants to surfaces in order to ease the insertion of stoppers into bottle necks relate only to conventional manufacturing techniques typically used to make devices of this type and therefore cannot contribute to providing a patentable inventive step.

6. Note that the translation includes claims which do not start on a new page and hence does not comply with the third schedule of the Patents Act

NOTE: There is a current postponement of acceptance in place. If you overcome all other objections before the expiration of that postponement, the Commissioner will only accept the application at that time if you have filed a clear and unambiguous statement requesting the withdrawal of that postponement. Otherwise, a further adverse report will be issued.

I apologise for any inconvenience resulting from your application not being considered within the time limit set out in our Customer Service Charter.

You have 21 months from the date of this report to overcome all my objection(s) otherwise your application will lapse.

You will need to pay a monthly fee for any response you file after 12 months from the date of the first report.

You will also need to pay any annual continuation fees that apply. These will normally be first due five years from the filing date. Please note however that earlier commencement dates apply for divisional applications.

Information about fees may be obtained by phoning 1300 651 010.

Yours faithfully,



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